

## ENVIRONMENTAL QUALITY COMMISSION

March 25, 1999 Public Meeting

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The Kentucky Environmental Quality Commission (EQC) held a public meeting on March 25, 1999 at 10:00 a.m. in Room 327 at the State Capitol Building, Frankfort, Kentucky. Commissioners present were Chairperson Aloma Dew, Vice-Chair Betsy Bennett, Patty Wallace, Gary Revlett, Harold Benson, and Bob Riddle. EQC staff present was Leslie Cole, Erik Siegel, and Frances Kirchhoff. There were approximately 25 people in attendance.

EQC Chairperson Aloma Dew called the meeting to order at 10:00 a.m. Betsy Bennett made a motion to approve the minutes of the January 27, 1999 meeting. Gary Revlett seconded the motion. The motion passed on voice vote.

Chairperson, Aloma Dew introduced John Hornback, Director of the Division for Air Quality, to review proposed air regulations. After discussion, Betsy Bennett made a motion to approve the air regulations and Gary Revlett seconded the motion. Upon voice vote the Commission recommended approval of the following regulations:

401 KAR 57:002?40 C.R.R. Part 61 national emission standards for hazardous air pollutants.

401 KAR 60:005?Standards of performance for new stationary sources.

401 KAR 63:002?40 C.F.R. Part 63 national emission standards for hazardous air pollutants.

401 KAR 57:019?Repeal of 401 KAR 57:015 et al.

After a 10-minute break, Aloma Dew introduced the next agenda item -- a review of the pending Lands Unsuitable for Mining Petition for Black Mountain. Ms. Dew noted that she was pleased Vicki Pettus and John Mark Clements with the Kentucky Department for Surface Mining, Tom FitzGerald representing the petitioner Kentuckians for the Commonwealth, and Bill Caylor with the Kentucky Coal Association could join us today to discuss the Black Mountain petition. Ms. Dew mentioned that most of us are familiar with controversy regarding a proposal to mine near the highest elevation of Black Mountain, given the amount of press this proposal has generated. She noted that while EQC does not typically get involved in site specific permits, the commission felt compelled to better understand the issues surrounding this proposal as well as opportunities to protect Kentucky's highest peak.

Ms. Dew first introduced Vicki Pettus, Director of the Division of Permits with the Department of

Surface Mining and John Mark Clements also with the Department of Surface Mining. Ms. Pettus gave the Commission a fact sheet of the Black Mountain Lands Unsuitable Petition 98-02. A copy is attached and made a part of these minutes. A video was shown of the aerial view of Black Mountain, narrated by Steve Vance of the Department of Surface Mining, giving points of interest such as past mine sites, areas permitted for mining, and past logging sites. A brief discussion followed the video.

Chair Dew next introduced Tom FitzGerald of the Kentucky Resources Council. Mr. FitzGerald is representing Kentuckians for the Commonwealth (KFTC) and filed the petition on behalf of this group. Mr. FitzGerald's remarks focused on the natural and historic significance of Black Mountain and the importance of preserving its natural beauty and the habitat it provides to many species of plants and wildlife. Mr. FitzGerald stated it is not KFTC's driving force to stop the mining of coal, but to support a collaborative approach to protect unique and sensitive natural areas of Black Mountain.

Chair Dew next introduced Bill Caylor with the Kentucky Coal Association. Mr. Caylor gave the Commission a handout entitled Black Mountain Fact Sheet. The fact sheet is attached and made a part of these minutes. Mr. Caylor's remarks focused mainly on the importance of coal mining to Kentucky's economy.

Several questions were asked during the presentations including the following:

Q. What is a bonded road?

A. Roads built by the coal company and bonded as part of the permit.

Q. What is the difference between mountain top removal and point removal?

A. Mountain top removal is the removal of the entire coal seam and the mountain top material becomes hollowfill. The mountain's peak is no longer the same elevation.

Point removal is the removal of part of the coal seam and how much fill is put back depends on post mine land use.

Q. Is the apple orchard pictured in the video a past mine site?

A. That particular section is privately owned and is a failed venture to make a ski slope.

Q. What is the highest elevation of the coal seam?

A. The High Splint seam is a little more than 3,000 feet and the lower end is 2,800 feet.

Q. How much coal reserve is in the High Splint?

A. This is unknown right now.

Q. How many acres are you seeking to protect through the petition?

A. The petition includes approximately 22,000 acres. There are also other areas below 3,000 feet that need protection

Q. How have previous mine sites on Black Mountain been reclaimed?

A. Haylands and pasture is usually the choice for reclaiming mine lands, and sometimes fish and wildlife enhancement. Trees are not usually used in reclamation because the area is compacted for stability and trees do not grow well in compacted soil.

A. Is there a question of takings and would the landowners need to be compensated?

Q. Extremely difficult to argue that this would be a takings.

Commission members Betsy Bennett and Aloma Dew and EQC director drafted a resolution regarding Black Mountain. Commissioner Bennett moved the Commission discuss it. Bob Riddle seconded the motion to discuss and it passed on voice vote. After a general discussion the resolution was finalized as follows:

1. Encourage the continued negotiation among all parties affected by the lands Unsuitable for Mining petition to find an acceptable settlement that provides for the recovery of coal in a manner that will protect the biological diversity of Black Mountain
2. Encourage a comprehensive and collaborative effort among land, timber and mineral owners; state, local, and federal officials; and natural resource experts to develop a Black Mountain Conservation Plan that promotes the use of management plans, conservation easements, direct land purchase, and other appropriate means necessary to maintain and enhance the environmental and biological integrity of Black Mountain
3. That political leaders including the Governor, the Kentucky Legislature, and the Kentucky Congressional delegation recognize that Black Mountain is a unique ecosystem worthy of protection and that the state and deferral funds be appropriated or otherwise secured to purchase significant natural areas to conserve the diversity of Black Mountain in perpetuity.

Betsy Bennett motioned to approve the resolution which was seconded by Bob Riddle. The motion passed unanimously by voice vote. Chairperson Dew instructed EQC staff to send the resolution to the Secretary Bickford, Governor Patton, the Kentucky Congressional Delegation, Legislative leaders and others with an interest in Black Mountain.

A brief business meeting followed and included an update of budget matters and a draft Memorandum of Agreement between EQC and the Department of Environmental Protection regarding office space and support services. The meeting adjourned at 12:45 p.m.

After the meeting, EQC Commissioners Aloma Dew, Gary Revlett, and Patty Wallace along with EQC staff Leslie Cole, Erik Siegel, and Frances Kirchhoff traveled to Glenn's Creek Road in Frankfort to cleanup an open dump as part of Commonwealth Cleanup Week. EQC spent 3 hours cleaning up several sections along the road resulting in the collection of 30 bags of bottles, cans, and litter. All members agreed that this was a good example of why Kentucky needs a bottle bill.

Signed?Betsy Bennett, Vice Chair

Date?July 22, 1999